

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MORGAN HARRIS

Plaintiff,

v.

CIVIL ACTION

ADT LLC and  
ADT LLC PROTECTION ONE SEVERANCE  
PLAN

No:

20 140

Defendants.

FILED

JAN 07 2020

COMPLAINT

A. PARTIES

KATE BARKMAN, Clerk  
By \_\_\_\_\_ Dep. Clerk

1. Plaintiff Morgan Harris is an adult individual and former employee of ADT LLC.
2. Defendant ADT LLC ("ADT") is a Delaware corporation with offices located at 1501 Yamato Road, Boca Raton, FL 33431.

B. JURISDICTION AND VENUE

3. This Court has jurisdiction over Plaintiff's claim under ERISA for denied benefits pursuant to 29 U.S.C. 1132(a)(1)(B) and 28 U.S.C. 1331.
4. Venue is properly invoked in this district pursuant to 28 U.S.C. 1391 because Plaintiff accrued his severance benefit under the Severance Plan while living in Pennsylvania, and the Plan has significant contacts in this district with participants who reside here.
5. Plaintiff exhausted his administrative remedies pursuant to the terms of the Severance Plan.

C. FACTS

6. Mr. Harris was employed by ADT from September 1, 2012 through August 1, 2019 in the position of Senior Director Enterprise Solutions.

7. ADT LLC provides security services to individuals and commercial entities.

8. On or about July 17, 2019, ADT terminated Mr. Harris's employment with the company effective August 1, 2019, and, in conjunction therewith, presented a severance agreement to Harris.

9. The severance agreement was presented to Mr. Harris pursuant to the ADT LLC Protection One Severance Plan. ("Severance Plan").

10. ADT established the Severance Plan for the purpose of providing severance benefits to certain employees of ADT.

11. ADT states in the Severance Plan that the Severance Plan constitutes a formal employee welfare benefit plan under the Employee Retirement Income Act of 1974 ("ERISA").

12. Harris is a participant pursuant to the terms of the Severance Plan and as set forth in the proposed severance agreement.

13. Pursuant to Section 3.01 of the Severance Plan, the amount of severance pay (severance benefit) payable to a participant shall be calculated based upon the participant/employee's years of service corresponding to the employee's job classification and pay grade level.

14. The severance benefit Harris is entitled to receive pursuant to the Severance Plan is in the amount of \$67,166.67 ("Severance Benefit").

15. Section 2.03 of the Severance Plan states, in pertinent part: "no Benefits shall be due or paid under the Plan to any Employee, unless the Employee executes (and does not rescind) a written waiver and release, in a form prescribed by the Company, of any and all claims...".

16. The severance agreement presented to Harris included not only a written waiver and release but also included significant restrictive covenants.

17. Paragraphs 3(b) and (c) of the proposed severance agreement included a non-solicitation clause and a non-competition clause, respectively.

18. Pursuant to Paragraph 3(c) of the severance agreement Harris would be precluded from working in his chosen field for one (1) year following the date of termination.

19. There is no language in the Severance Plan that requires an employee to enter into a post-employment restrictive covenant in order to receive the promised Severance Benefit.

20. Promptly after receiving the proposed severance agreement, Harris informed ADT that he would not agree to the restrictive covenants contained in the severance agreement but would agree to the release and waiver, as required by the Severance Plan.

21. ADT refused to remove the restrictive covenants from the severance agreement and refused to pay Harris the Severance Benefit.

22. ADT also communicated that the Severance Plan is an ERISA Plan and any claim regarding the determination of benefits must be made to the Plan Administrator.

23. On or about September 18, 2019, Harris submitted a timely written claim of the determination of benefits under the Severance Plan to Amelia Pulliam as well as to outside counsel for ADT, pursuant to Section 7.01 of the Severance Plan ("Claim").

24. Section 7.02 of the Severance Plan dictates that the Plan Administrator shall have 90 days to deny such Claim and was required to notify Harris in writing of the denial of the Claim.

25. ADT failed to respond to the Claim in any manner.

26. Harris has exhausted administrative remedies, to the extent any apply.

27. To the extent the Severance Plan fails to qualify as a formal employee welfare benefit plan under ERISA, ADT owes Harris the Severance Benefit pursuant to the Pennsylvania Wage Payment and Collection Law.

28. Despite repeated demands, ADT without justification and in bad faith, has failed and refused to pay Harris the monies due and owing to him pursuant to the Severance Plan.

**COUNT I**  
**IMPROPER DENIAL OF BENEFITS PURSUANT TO THE**  
**EMPLOYMENT RETIREMENT INCOME SECURITY ACT**

29. Plaintiff hereby incorporates the preceding paragraphs of this Complaint as if fully set forth at length herein.

30. Defendant ADT violated the terms of the Severance Plan by failing to pay the Severance Benefit to Plaintiff.

31. Defendant ADT violated the terms of the Severance Plan by requiring Plaintiff submit to restrictive covenants, which are not included in the terms of the Severance Plan.

32. In accordance with the Severance Plan's terms, and ERISA, Plaintiff is entitled to full payment of the Severance Benefit.

**COUNT II**  
**VIOLATION OF THE PENNSYLVANIA WAGE PAYMENT AND COLLECTION LAW**

33. Plaintiff incorporates by reference Paragraphs 1 through 28 of this Complaint as if fully set forth at length herein.

34. At all times material hereto, Plaintiff was an "employee" of ADT as defined by the Pennsylvania Wage Payment and Collection Law ("WPCL"), *43 P.S. §260.1 et seq.*

35. At all times material hereto, ADT was Plaintiff's "employer" as defined by the WPCL.

36. The foregoing severance amounts due and owing to Plaintiff constitute "wages" as defined by the WPCL.

37. To date, Defendant ADT has failed and refused to pay Plaintiff the wages to which he is contractually entitled under the Severance Plan.

38. Defendant's refusal to pay Plaintiff is without justification and in bad faith, thereby entitling Plaintiff to liquidated damages in the amount of twenty-five percent (25%) of the total wages due and owing to him under the Severance Plan plus attorney's fees pursuant to the WPCL.

**COUNT III**  
**BREACH OF CONTRACT**

39. Plaintiff incorporates Paragraphs 1 through 28 of the Complaint as if fully set forth at length herein.

40. Defendant ADT entered into a binding and enforceable agreement, the Severance Plan.

41. The terms and conditions of the Severance Plan require Defendant to make timely severance payment to Plaintiff.

42. Despite repeated demands by Plaintiff for payment of the severance, Defendant has failed, refused and neglected to tender payment in full and presently owes Plaintiff the unpaid amounts set forth above.

43. The failure and refusal of Defendant to tender payment in full as required under the Severance Plan constitutes a breach of contract.

44. As a direct and proximate result of the breach of contract by Defendant, Plaintiff has suffered substantial losses including, but not limited to unpaid severance.



**PRAYER FOR RELIEF**

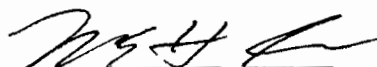
WHEREFORE, Plaintiff, Morgan Harris, respectfully requests that this Court:

- A. Enter a declaratory judgement that Plaintiff is entitled to Severance Benefits under the terms of the Severance Plan;
- B. Require the Severance Plan to issue the Severance Benefit immediately;
- C. Grant to Plaintiff all penalties, costs, disbursements and reasonable attorneys' fees relating to his claim for benefits;
- D. Grant Plaintiff prejudgment interest;
- E. In the alternative, require ADT LLC to pay Plaintiff the Severance Benefit pursuant to the Pennsylvania Wage Payment and Collection Law along with liquidated damages, costs, disbursements and reasonable attorneys' fees;
- F. And grant Plaintiff such additional relief as this Court deems appropriate.

Respectfully submitted,

**LAMB McERLANE PC**

Date: 1/6/20

By:   
Mary-Ellen H. Allen, I.D No. 83885  
24 E. Market Street  
West Chester, PA 19381  
610-430-8000  
*Attorney for Plaintiff*  
*Morgan Harris*

BBS

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JS 44 (Rev. 02/19)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Morgan Harris

**DEFENDANTS**

ADT LLC and ADT LLC Protection One Severance Plan

(b) County of Residence of First Listed Plaintiff Chester  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Palm Beach  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) Attorneys (Firm Name, Address, and Telephone Number)

Mary-Ellen H. Allen  
24 E. Market Street, West Chester, PA 19381 (610)430-8000

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |                                         | PTF                                   | DEF                                   |                                                               | PTF                        | DEF                        |
|-----------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1            | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation                                                | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS -Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer w/Disabilities - Employment <input type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)  
 29 USC Section 1001, et seq.

Brief description of cause:  
 Failure to Pay Benefits Under ERISA Plan

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions)

JUDGE

DOCKET NUMBER

DATE  
 01/06/2020

SIGNATURE OF ATTORNEY OF RECORD

JAN -7 2020

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG JUDGE

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**20****140****DESIGNATION FORM***(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)*

Address of Plaintiff: 870 West Street Road, West Chester, PA 19382

Address of Defendant: 1501 Yamato Road, Boca Raton, FL 33431

Place of Accident, Incident or Transaction: Chester County, Pennsylvania

**RELATED CASE, IF ANY:**

Case Number \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated \_\_\_\_\_

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- |                                                                                                                                                                                        |                              |                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|----------------------------------------|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?                                        | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?            | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?                                                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 01/06/2020

*[Signature]*  
Attorney-at-Law / Pro Se Plaintiff

83885

Attorney I.D. # (if applicable)

**CIVIL: (Place a ✓ in one category only)****A. Federal Question Cases:**

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FEELA
- ☐ 3. Jones Act-Personal Injury
- ☒ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases  
(Please specify) \_\_\_\_\_

**B. Diversity Jurisdiction Cases:**

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): \_\_\_\_\_
- ☐ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases  
(Please specify): \_\_\_\_\_

**ARBITRATION CERTIFICATION***(The effect of this certification is to remove the case from eligibility for arbitration.)*

I, \_\_\_\_\_, counsel of record or pro se plaintiff, do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☒ Relief other than monetary damages is sought

DATE: \_\_\_\_\_

*[Signature]*  
Attorney-at-Law / Pro Se Plaintiff

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38

**JAN -7 2020**



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Morgan Harris

v.

ADT LLC and ADT LLC Protection

One Severance Plan

CIVIL ACTION

20

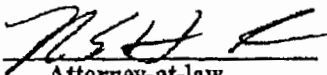
140

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (x)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks.

<u>1/6/20</u> Date 610-430-8000 Telephone	 Attorney-at-law 610-696-6668 FAX Number	Morgan Harris Attorney for mallen@lambmcerlane.com E-Mail Address
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(Civ. 660) 10/02

JAN -7 2020